

Office of the Secretary of Defense

§ 204.4

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AUTHORITY: 31 U.S.C. 483a.

SOURCE: 51 FR 16024, Apr. 23, 1986, unless otherwise noted. Redesignated at 56 FR 64482, Dec. 10, 1991.

§ 204.1 Reissuance and purpose.

This part reissues 32 CFR part 204 and implements the DoD program under 31 U.S.C. 9701, and OMB Circular A-25 for establishing appropriate charges for authorized services provided by DoD organizations.

[51 FR 16024, Apr. 23, 1986. Redesignated and amended at 56 FR 64482, Dec. 10, 1991]

§ 204.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components"). None of the provisions in this part should be construed as providing authority for the sale or lease of property, or the rendering of special services. Actions to convey such special benefits must be authorized by separate authority. The user charge policy is applicable except when other statutes or directives specifically direct other practices or procedures.

§ 204.3 Definitions.

Recipient. One who requests or receives the benefits of the service(s) provided.

§ 204.4 Policy.

(a) *General.* It is DoD policy not to compete with available commercial facilities (see 32 CFR part 169a) in providing special services or in the sale or lease of property to private parties and agencies outside the Federal Government. However, when a service or sale is made that conveys special benefits to recipients, above and beyond those accruing to the public at large, a reasonable charge shall be made to each identifiable recipient, except as other-

wise authorized by the Secretary of Defense. A special benefit will be considered to accrue, and a charge shall be imposed when the service rendered:

(1) Enables the recipient to obtain more immediate or substantial gain or values (which may or may not be measureable in monetary terms) than those which accrue to the general public; or

(2) Is performed at the request of the recipient and is above and beyond the services regularly received by or available without charge to the general public.

(b) *Costing.* (1) A charge shall be imposed to recover the full cost to the Federal Government of rendering a service or the fair market value of such service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be made based on recovery of full costs to the Federal Government.

(2) When federally owned resources or property are leased or sold, a fair market value shall be obtained. Fair market value shall be determined by the application of sound business management principles and, so far as practicable and feasible, in accordance with comparable commercial practices. Charges based on fair market value need not be limited to the recovery of costs; they may produce net revenues to the Government.

(c) *Exclusions and exceptions.* (1) The provisions of this part do not apply when other statutes or directives require different practices or procedures such as for:

(i) Morale, welfare, and recreation services to military personnel and civilian employees of the Department of Defense and other services provided in accordance with § 204.9.

(ii) Sale or disposal of surplus property under approved programs (See DoD Instruction 7310.1¹).

(iii) Services furnished the general public relating to, or in furtherance of, the U.S. Armed Forces recruiting program.

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.